19016 Pacific Coast Highway 4449-003-027 Friedman

Permit No. 5-83-456 for construction of 3 story house on vacant lot and bulkhead. Lateral and vertical Offers-to-Dedicate required.

#### Vertical:

3' vertical on western property line is adjacent (eastern side) to Hundley DR. Plans show a 2 to 1 slope on PCH side of vertical and another short steep slope further down. Stairs needed? Same slope on Hundley?

Staff report specifically mentions no walls in OTD area. Final revised plans, dated Sept. 26, 1985 show walls blocking vertical have been removed.

Sewage plan shows bulkhead in vertical on both Friedman and Hundley properties -- problem for access??

199298 Return Original To and RECORDED IN OFFICIAL RECORDS Recording Requested By: OF LOS ANGELES COUNTY, CA State of California California Coastal Commission 631 Howard Street, 4th Floor San Francisco, California 94105 1984 AT 8 A.M. FEB 18 Recorder's Office S FREE This document filed for record by California Band Tide Company as an accommodation only. It has not been examined as to its execution or as to its effect upon the title.
IRREVOCABLE OFFER TO DEDICATE WHEREAS, (1) Dorothy J. Friedman the record owner(x), hereinafter referred to as "owner(x)", of the real property located at (2) 19016 Pacific Coast Highway, Malibu, County of Los Angeles California, legally described as particularly set forth in attached (3) Exhibit  $\underline{A}$  hereby incorporated by reference and hereinafter referred to as the "subject property"; and WHERE'S, the California Coastal Act of 1976 (hereinafter referred to as the "Act") creates the California Coastal Commission (hereinafter referred to as the "Commission") and requires that any coastal development permit approved by the Commission or local government as defined in Public Resources Code Section 30109 must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and WHEREAS, the People of the State of California have a legal III. interest in the lands seaward of the mean high tide line; and WHEREAS, pursuant to the California Coastal Act of 1976, the owner(s) applied to the Commission for a coastal development permit for (4) Construction of a three story. 2602 square foot, single family Residence on a vacant ocean front lot on the subject property; and

WHEREAS, a coastal development permit no. (5) 5-83-456 was

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granted on (6) \_\_25, August \_\_\_\_\_, 19\_83 by the Commission in accordance with the provisions of the Staff Recommendation and Findings (7) (Exhibit B) attached hereto and hereby incorporated by reference, subject to the following condition: (8) Vertical Access. Prior to transmittal of a permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to deflicate to an agency approved by the Executive Director, an asement for public access to the shoreline. Such easement shall be described as from Pacific Coast Highway along the western property line to the mean high tideline. The easement shall be 3 feet in width. Said easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed. 10 The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicants or landowners. The offer of dedications shall be irrevocable for a period of 21 years, such period running from the date of recording. 12 13 .14 15 16 17

VI. WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. . WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Section 30210 through 30212 of the

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California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW THEREFORE, in consideration of the granting of permit no. (9) 5-83-456 to the owner(s) by the Commission, the owner(s) hereby offer(s) to dedicate to the People of California an easement in perpetuity for the purposes of (10) Public access to the shore line

located on the subject property (11) Along the westerly property line to the mean high tide line an easement three feet in width and as specifically set forth by attached Exhibit C (12) hereby incorporated by reference.

This offer of dedication shall be irrevocable for a period of twenty-one (21) years, measured forward from the date of recordation, and shall be binding upon the owner(s), their heirs, assigns, or successors in interest to the subject property described above. The People of the State of California shall accept this offer through the local government in whose jurisdiction the subject property lies, or through a public agency or a private association acceptable to the Executive Director of the Commission. or its successor in interest.

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Acceptance of the offer is subject to a covenant which runs with the land, providing that any offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies or private associations acceptable to the Executive Director of the Commission for the duration of the term of the original offer to dedicate. The grant of easement once made shall run with the land and shall be binding on the owners, their heirs, and assigns.

Executed on this 13 day of JANGARY 1984, at Los MOGLES
CONTY, California.

Signed / March 13 1984

Signed / March 1 Truck Men

Type or Print Name of Above

Signed \_\_\_\_\_

Type or Print Name of Above

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STATE OF GALIFORNIA STO. IID IREV, 8-71

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NOTE TO NOTARY PUBLIC: If you are notarizing the signatures of persons signing on behalf of a corporation, partnership, trust, etc., please use the correct notary jurat (acknowledgment) as explained in your Notary Public Law Book. State of California, LOS ANGELES CONNTY County of LOS ANGLLES On this 13 day of 500-00x 1984, in the year 1784, before me KLAMETH W. MOULBER., a Notary Public, personally appeared bone thy Fant man personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is subscribed to this instrument, and acknowledged that he/she/they executed it. Vai ett W. Homester NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE "

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. 1 This is to certify that the Offer to Dedicate set forth above is 2 hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California 3 4 Coastal Commission when it granted Coastal Development Permit 5 No. 5-83-456 Auliust 25,1983 and the California 6 Coastal Commission consents to recordation thereof by its duly authorized officer. Dated: January 4, 198 9 10 11 California Coastal Commission 12 STATE OF <u>Fo. Cifornia</u> 13 14 COUNTY OF Day Francisco) 15 January 1984, before me Gry Laurerre Hollowy 16 a Notary Public, personally appeared Cunthia K. 17 18 known to me to be (or proved to me on the basis of satisfactory evidence. 19 to be the person who executed this instrument as the Stall Course C 20 .21 and authorized representative of the California Coastal Commission and 22 acknowledged to me that the California Coastal Commission executed it. 23 GARY LAWRENCE HOLLOWAY 25 MOTARY PUBLIC-CALIFORNIA CITY & COUNTY OF

Any Lawrence Hollowers Notary Sublic in and for said County and State

SAN FRANCISCO nmission Expires October 25, 1985

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#### EXHIBIT "A"

Legal Description:

Parcel 62, as shown on Licensed Surveyors Map filed in Book 26, Pages 43 and 44 of record of surveys, in the County of Los Angeles, State of California, in the office of the County Recorder of said County.

Also that portion of Lot 8, Section 31, Township i South, Range 16 West, San Bernardino Meridian, in said County, bounded as the same appears on map attached to first amended and court of said County bounded Southerly by the Northerly line tion of the Westerly line of said Parcel 62 bounded Westerly by the Northerly prolongaby the Northerly prolongaby the Northerly prolongation of the Easterly Parcel 62.

EXCEPT any portion of said land which at any time was title land which was not formed by the deposit of alluvion from natural causes and by imperceptible degrees.

#### EXHIBIT A

#### CALIFORNIA COASTAL COMMISSION 631 Howard Street, San Francisco 94105 --- (415) 543-8555

FILED: 7-12-83 49TH DAY: 8-30-83 18CTH DAY: STAFF REPORT: 1-8-84 8-12-83 MEETING OF: 8/23-26/83 STAFF:

AUG 1 9 1983

#### STAFF REPORT

#### ADMINISTRATIVE ITEM

APPLICATION NUMBER: 5-83-456 (Friedman) APPLICANT: .Dottie Friedman AGENT: Kenneth Moulder PROJECT LOCATION: 19016 Pacific Coast Highway, Malibu, Los Angeles PROJECT DESCRIPTION: Construction of a three story, 2602 square foot, single-family residence on a vacant oceanfront ich. LOT AREA 2,550.sq.ft LANDSCAPE COVERAGE N/A PROJECT DENSITY BLDG. HEIGHT ABOVE COVERAGE 1,502 sq.ft ZONING R-3-3000 AVERAGE FINISH PAVEMENT COVERAGE DESIGNATION LOCAL APPROVALS RECEIVED Approval in concept.in Los Angeles County, Approval in

EXECUTIVE DIRECTOR DETERMINATION. Pursuant to PRC Sec. 30604, the Executive Director hereby issues a permit for the proposed development, subject to Standard Conditions adopted by the Commission and Special Conditions below, on the grounds that, as conditioned, the development is in conformity with the provisions of Chapter 3 of the Coastal Act of 1976, will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3, and will not have any significant adverse impacts on the environment within the manning of the California adverse impacts on the environment within the meaning of the California Environmental Quality Act. Any development located between the nearest public road and the sea is in conformity with the public access and public recreation policies of Chapter 3.

Concept Department of Health Services

#### I. STANDARD CONDITIONS

- Motice of Receipt and Acknowledgement. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
- 4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
- Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
- Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

#### II. SPECIAL CONDITIONS

1. Lateral Access. Prior to the transmittal of a permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved in writing by the Executive Director of the Commission, irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, an easement for public access and passive recreational use along the shoreline. The gasement shall include all area from the mean high tide line landward to the dripline of the most seaward extent of the structure. The document submitted for recording shall include a record of survey illustrating the easement and shall include legal descriptions of both the applicant's entire parcel and the easement area. Such offer of dedication shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicants or landowners. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

Vertical Access. Prior to transmittal of a permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public access to the shoreline. Such easement shall be described as from Pacific Coast Highway along the western property line to the mear high tideline. The easement, shall be 3 feet in width. Said easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Cirector determines may affect the interest being conveved,

The offer shall run with the land in favor of the People of the State of California, binding successors and striggs of the applicants or landowners. The offer of dedications shall be irrevocable for a period of 21 years, such period running from the date of recording.

- 3. Applicant's Assumption of Risk. Prior to the issuance of a coastal permit, the applicant shall submit to the Executive Director an executed deed restriction for recordation free of prior liens and encumbrances, except for tax liens, that binds the applicant and all successors in interest to the development property. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director and shall state the following:
  - a. The applicant has requested coastal development period number 5-83-456 from the California Coastal Commission to authorize the construction of a single family residence.
  - b. The applicant has retained a registered civil engineer and certified engineering geologist to study the site for the presence of seismic, geologic, erosion, wave runup, and other hazard(s).
  - c. The expert's observations, conclusions and recommendations are contained in a report entitled Updated Geologic and Soils Engineering Report Plan Review and Revised Foundation Recommendations, dated March 8, 1983 by Kovacs-Byer-Robertson, Inc. and Foundation Investigation Proposed Single Family Residence dated July 28, 1977 by Kovacs-Byerand Assoc., Inc.
  - d. Based upon information contained in the above-referenced reports and the findings of the Coastal Commission in granting the permit, the applicant understands that the site is subject to extraordinary hazard from ground shaking from a seismic event including liquefaction and tsunami, landslides, floods, creep, consolidation and surficial failure, and scour and erosion from wave runup.

- e. By accepting the permit, the applicant recognizes the risk he is taking and assumes the liability for harm to life or damage to property that may result from the hazards described in (d) above due to pre-existing conditions, natural causes, or the applicant's
- f. The applicant agrees to waive unconditionally any potential claim of liability against and to hold harmless the California Cosstal Commission and any other public agency which authorized this development for any damage, loss of property or life which may arise as a result of the design, the construction or the placement of materials on the development property as authorized by this coastal permit, excepting however, any claims of indemnification that the public agency.
- g. The applicant understand that construction in the face of these known hazards may make him ineligible for public disaster funds or loans for the repair, replacement or rehabilitation of the property or development in the event of saismic ground shaking, floods, landslides, creep, consolidation or surficial failure, or scour and erosion from wave run-up.
- 4. Revised Plans. Prior to the transmittal of the permit, the applicant shall submit revised plans indicating no walls or other structures or landscaping which would block the area identified as the vertical access easement in
- III. Additional Findings. The Executive Director determines and findses
- A. Project Description. The applicant proposes to construct a three-story, 2,602 square foot single family residence on a 2,550 square foot vacant oceanfront lot at Las Tunas Beach in Malibu. The structure includes a bulkhead located 13 feet to the oceanside of the adjoining property bulkhead to the west, and a septic system.
- B. Public Access. Sections 30210, 30211 and 30214 of the Coastal Act provice that maximum public access be provided and that development not interfere with the public's right of access to the sea. In addition, Section 30212 of the Act provides, in parts, that:
  - (a) Public access from the nearest public roadway to shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

The applicant proposes to develop a single family residence on an oceanfront parcel on Las Tunas Beach.

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The development as proposed will result in commitment of an beachfront area to private residential use. Section 30212 requires that public access be provided in new development except for exceptions set forth in 30212(a)(1-3) In this case those exceptions do not apply. The Commission has concluded in past actions that provision of lateral access is necessary Condition 1 to provide lateral public access is therefore required to shoreline.

The nearest vertical public access easement is located approximately one half mile away at Topanga State Beach. The lack of meanby vertical access does not allow the public reasonable and maximum access to the shoreline. Provision of vertical access as provided by Condition 2 is required by Section 30212 in order to maximize access and mitigate for the burden the proposed development places on the public's ability to reach the shoreline.

However, as proposed the project would also construct a wall extending from the structure to the property line in the area required for the vertical access easement thus effectively precluding use of the easement. Condition 4 is thus necessary to delete the wall from the proposed easement area in order to find the project consistent with Section 30212 of the Act.

In addition, the property is on a sand promontory. To the west, upcoast existing SFDs are generally developed on a common line. However downcoast to the east the existing structures have substantially varied setbacks on the oceanside and a vacant lot is immediately adjacent.

As proposed, the structure will be located with a setback more closely conforming to existing development pattern upcoast. In this case application of the stringline is not required to assure that development will not encroach substantially on beach area beyond existing development. Further, since structures downcoast are older and have greater setbacks, application of the stringline would result in greater restrictions on adjacent properties. Therefore, since development as proposed will not encroach further on the beach, the development as conditioned is consistent with the public access and recreation policies of the Act.

#### HAZARDS

The development is proposed on a sand promontory in an area subject to hazards from wave run up, scour and erosion. Damage to adhacent structures occurred from the past winter's heavy surf and high tides. The applicant's geotechnical report identifies potential hazards noting that scour and erosion of the highway fill slope on the site has occurred. A six to seven foot high vertical slope has been created by wave attack on site and the beach profile has been lowered. The report recommends measures to minimize risks from potential wave run-up hazards and scour which have been incorporated into the project,

At Section 30001.5 of the Coastal Act, the legislature has stated that one of the basic goals of the state for the coastal zone is to:

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

Given the fact that there is evidence that a geologic and erosion hazard exists in the area where this development is proposed, other sections of the Coastal Act regarding that specific hazard applies.

Section 30253 of the Coastal Act states, in part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion; surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Under Section 30253 new development in areas of high geologic. flood, and fire hazard may occur so long as risks to life and property are minimized and the other policies of Chapter 3 are met. Likewise, new developments be stable in and of themselves, and shall not require the construction of shoreline protective devices that would eventually alter natural flandforms along bluffs and cliffs. The Coastal Act recognizes that new development may involve the taking of some risk, but require the Commission to development. The Commission must also determine who should assume that commission considers the hazard associated with the project site and the property.

The geotechnical report has proposed mitigation measures incorporated into the project design including recommendations on foundation and lateral design, bulkhead construction, temporary cut slope stability and the design and location of the septic system and drainage controls.

The Commission notes that these structural solutions have been known to fail. For example, many geologic studies are based on the risks which might be caused by an "average event". An event of greater than average February likely occur. Such an "extraordinary" event occurred in accelerated coastal erosion and inundated developments.

Although a structure may be engineered to withstand a certain statistical risk of harm, when the hazardous event actually does occur, it may not survive. The applicant's geotechnical report notes that, "Beachfront developments involve risk that are not found in conventional flatland developments and these risks can never be eliminated."

The applicant may decide that the economic benefits of development outweigh the risk of harm which may occur from the identified hazards. Neither the Commission nor any other public agency that permits the development should be held liable for the applicant's decision to develop. Therefore, the applicant is required to expressly waive any potential claim of liability against the Commission for any damage or economic harm suffered as a result of the decision to develop.

The orderly use of the State's limited economic resources also requires the developer to assume the economic burdens in case the hazard occurs, and not to seek public relief. The Commission is aware that local, state, and federal programs may provide assistance to property owners and others who suffer from the types of hazard found on the site. These programs may contain policies which disallow disaster relief in certain cases.

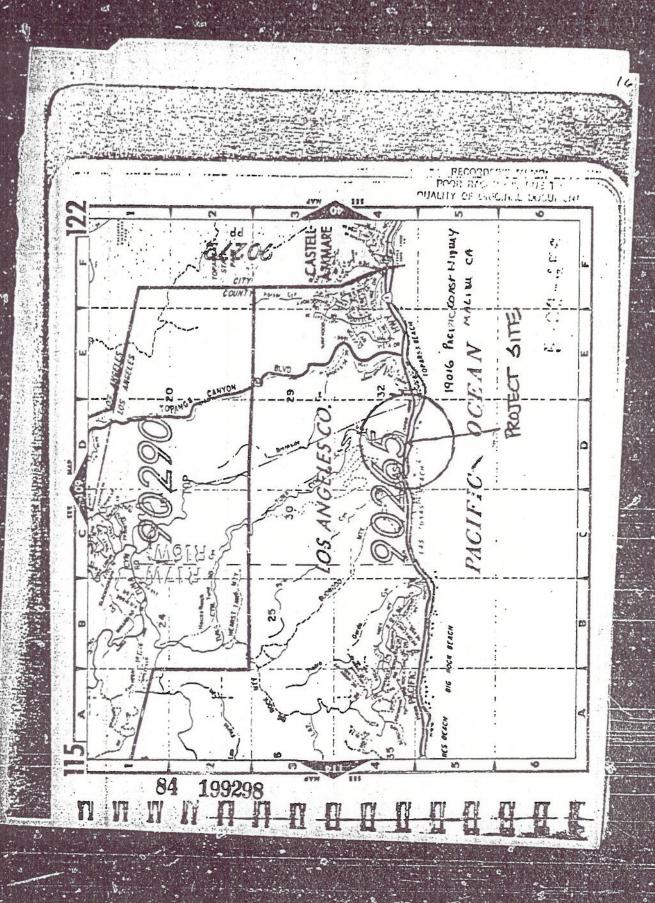
The Comptroller General recently published a report on the National Flood InsuranceiProgram in response to a request by a Senate subcommittee (publication number #GAO/CED-82-105). The General Accounting Office..."observed also that providing flood insurance and other Federal assistance in extremely hazardous coastal areas subject to wave damage may be undesirable public policy because of the high potential for loss of life and destruction of property." On page 14, the report stated, "The policy question involved is whether the Federal Government, through its assistance programs and tax laws, should share in the risks or whether individuals who build in coastal high hazard areas in the future should assume the full risks of losses."

This is the same policy question addressed by Section 30001.5 of the Coastal Act. The Commission must assure that the economic peeds of the people of the State are not prejudiced by permitting a structure to be built that foreseeably requires repairs at public expense if disaster relief is granted.

The permit Condition 3 notifies the applicant of him/her potential ineligibility for public disaster relief funds and thereby encourages him/her to seek insurance from private indemnity companies. The applicant may find that private industry will carefully analyze the probability and degree of harm; it may be reluctant to insure the proposed development, or do so at a considerable cost. This business judgment would encourage the developer to consider alternatives to the proposed development to minimize the risks to life and property created by the development.

Assuming a decision by a private insurance company not to insure, or to do so at a cost that is infeasible to the applicant, that would constitute considerable evidence that the risks to life and property created by the proposed development have not been minimized. In that case, the development would not be consistent with the mandate of Section 30253 of the Coastal Act. Even though the Commission had granted the applicant the coastal permit, the applicant may choose not to proceed with the development given the knowledge that risks to his investment have not been minimized.

The Commission finds that this condition is consistent with, and necessary to carry out, one of the State's basic goals for the coastal zone, i.e.,



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84-199298

## RECORD OF

IN THE UNINCORPORATED.

COUNTY OF LOS ANGELES, ST

BEING A SURVEY OF PARCEL 62 OF I

FILED IN BOOK 26, PAGES 43 AND 4

IN THE OFFICE OF THE COUNTY RECORD

DATUM PLANE

MEAN SEA LEVEL BASED UPON LOS ANGELES COUNTY ROAD DEPARTMENT BENCH MARK NO. CY5973, ELEVATION OF 28,731, 1980 ADJUSTMENT.

CO

BASIS OF BEARINGS

THE BEARING 57, 31 15'S OF THE CENTERLINE OF PACIFIC COAST HIGHWAY AS SHOWN ON C.S.B. 2888-1, WAS TAKEN AS THE BASIS OF REARINGS SHOWN ON THIS MAP.

PER CS PB C B MON

SSY 36

PER CS B 2669-111

PER CS B 2666

# OF SURVEY

SHEET 1 OF 1 SHEETS

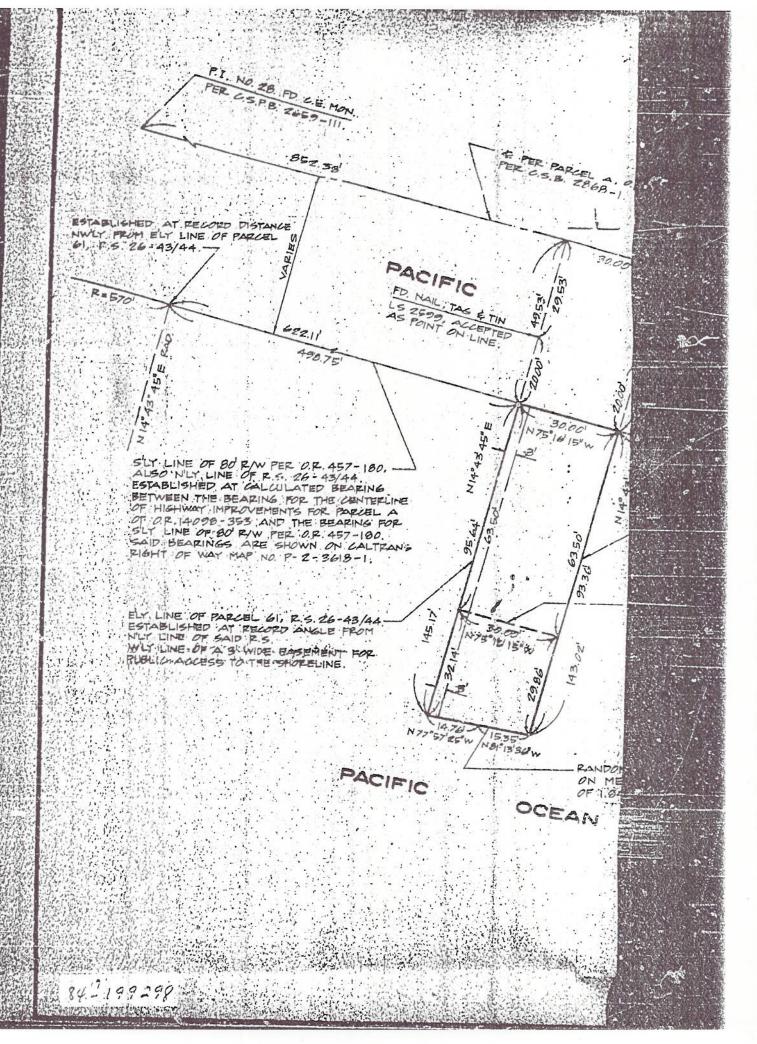
ATED TERRITORY OF THE STATE OF CALIFORNIA BE OF LICENSED SURVEYOR'S MAP 3 AND 44 OF RECORD OF SURVEYS. RECORDER OF LOS ANGELES COUNTY.

### SURVEYOR'S CERTIFICATE

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT AT THE REQUEST OF

> ENNETH: K. WATANABE RCE 20024

68 OR 14098-BES



14098-853 F.I. NO. 27, FD. C.E. MON. PER CS.F.B. 2650-110. 5 75 31 15 E 218.29 COAST FD. NAIL: TAK & TIN LS 2599 ACCEPTED. HIGHWAY N75° 10 15"W 12 93.36 WLY LINE OF PARCEL 63, R.S. 26-43/44, ESTABLISHED AT RECORD ANGLE FROM N'LY KIMES R=1030 OF SAID P.S. ESTABLISHED AT RECORD DISTANCE SELY FROM N'LY LINE OF A VARIABLE WIDTH. P.S. 26 - 43/44: AND PASSIVE PECPEATIONL USE !! PANDOM LINE BETWEEN POINTS ON MEAN HIGH TIDE I INZ. ELEV. OF 1.84 SURVEYED GOTOBER 10, 1983. CEAN 84-199298